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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/539,439

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Hugo De Vries

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EXAMINER

JUSKA, CHERYL ANN

ART UNIT

PAPER NUMBER

1794

MAIL DATE

DELIVERY MODE

12/17/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/539,439	Applicant(s) DE VRIES, HUGO	
	Examiner Cheryl Juska	Art Unit 1794	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 October 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5, 10-13, 16, 17 and 23-30 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 10-13, 16, 17 and 23-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination (RCE) under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on October 8, 2009 has been entered.

Response to Amendment

2. Applicant's amendment filed with the RCE has been entered. Claims 1-5, 10-13, 16, 17, 23, and 24 have been amended as requested. Claims 6-9, 14, 15, and 18-22 have been cancelled and new claims 25-30 have been added. Thus, the pending claims are 1-5, 10-13, 16, 17, and 23-30.

Claim Rejections - 35 USC § 103

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 1, 2, 4, 5, 10-13, 16, 17, 23, and 24 stand rejected under 35 U.S.C. 103(a) as being unpatentable over US 5,601,886 issued to Ishikawa et al. in view of US 6,338,885 issued to Prevost as set forth in section 4 of the last Office Action (Final Rejection mailed April 8,

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2009). Claims 25-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 5,601,886 issued to Ishikawa et al. in view of US 6,338,885 issued to Prevost.

Applicant has amended claim 1 to incorporate the limitations of cancelled claims 6 and 7. Similarly, independent claim 12 has been amended to incorporate the limitations of cancelled claims 6, 7, and 15. As such, claims 1 and 12 are rejected for reasons analogous to those set forth in the rejections of claims 6, 7, and 15. Dependent claims 4, 5, 10, 11, 23, and 24 stand rejected as set forth in previous Office Actions.

Additionally, new claims 25, 26, 28, and 29 contain limitations analogous to cancelled claims 8 and 9. As such, claims 25, 26, 28, and 29 are rejected for reasons set forth in the rejection of claims 8 and 9 of previous Office Actions.

Furthermore, new claims 27 and 30 contain limitations cancelled from claims 1 and 12. As such, claims 27 and 30 are rejected for reasons analogous to those set forth with respect to claims 1 and 12 in previous Office Actions. Also, dependent claims 2, 13, 16, and 17 stand rejected as set forth in previous Office Actions.

5. Claim 3 stands rejected under 35 U.S.C. 103(a) as being unpatentable over US 5,601,886 issued to Ishikawa et al. in view of US 6,338,885 issued to Prevost as applied to claims 1 and 12 above, and in further view of US 6,955,841 issued to Weghuis et al. as set forth in section 5 of the last Office Action.

Response to Arguments

6. Applicant's arguments filed the RCE have been fully considered but they are not persuasive.

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7. Applicant traverses the rejection by arguing the prior art fails to teach or suggest the claim recitation “the at least one support loop being formed outside the row of grass blades” (Amendment, page 7, 4th paragraph – page 9, 3rd paragraph and page 10, 1st paragraph). It appears from applicant’s argument that said recitation is meant to limit the support loops are formed by an offset or zigzag tufting pattern (specification, page 6, lines 12-21 and Figure 4). However, the phrase “being formed outside the row of grass blades” does not necessarily limit the claims as argued. In particular, said phrase can be interpreted as reading on alternating rows of grass blades and rows of support loops. Being that Ishikawa explicitly teaches such alternating rows of grass filament tufts and rows of assist or support tufts (i.e., support tufts formed “outside the row” of grass tufts), said amendment is insufficient to overcome the standing rejection.

8. In the interest of compact prosecution, in the event the claims are limited to an embodiment as shown in Figure 4 of the specification, the claims would still be held obvious over the prior art. Specifically, the combination of grass blades and support loops in an artificial turf surface are well known in the art as evidenced by Ishikawa and the other art of record. Hence, variations on the patterns of arranging the two tuft types within the turf surface would be within the level of ordinary skill in the art. In other words, changes to tuft stitch patterns (i.e., offset or zigzag patterns) and stitch spacing would be held obvious over the prior art.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cheryl Juska whose telephone number is 571-272-1477. The examiner can normally be reached on Monday-Friday 10am-6pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner can be emailed at cheryl.juska@uspto.gov or the examiner's supervisor, D. Lawrence Tarazano can be reached at 571-272-1515. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

11. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Cheryl Juska/
Primary Examiner
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